COMMISSION FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE SERVICES

Rules Committee Minutes

Holiday Inn-Brownstone
1707 Hillsborough Street
Raleigh, NC 27605

Wednesday, April 11, 2007

Attending:
Commission for MH/DD/SAS Members: Floyd McCullouch, Anna Marie Scheyett, Dr. Richard Brunstetter, Dorothy Rose Crawford, Pearl L. Finch, Mazie Fleetwood, George Jones, Martha Martinat, Pender McElroy, Connie Mele, Jerry Ratley, William Sims, Clayton Cone, Laura Coker, Ellen Holliman, Carl Shantzis, Ed.D., CSAPC

Ex-Officio Members: Peggy Balak, Sally R. Cameron, Yvonne Copeland, Deby Dihoff, Joe Donovan, Larry Pittman, Jennifer Munford

Excused: Lois T. Batton, Ann Forbes, Emily Moore, Fredrica Stell

Others: Andrea Borden, Marta Hester, Steve Hairston, Denise Baker, Susan Kelley, Richard Oliver, Yvonne French, Monica Jones, Karen Salacki, Ann Rodriguez, Martha Brock, Kent Earnhardt, Dr. Michael Lancaster, Laura White, Stuart Berde, Martha Lamb, Wendi McDaniel, Chris Phillips, Ann Remington, John Crawford

Handouts:
Mailed Packet:
1. April 11, 2007 Rules Committee Agenda
2. January 17, 2007 Draft Rules Committee Minutes
   - NC Council of Community Program – Council Position on Proposed Rules (Handout)
3. Proposed Adoption of 10A NCAC 26C .0402 – Standardized Forms and Processes
4. Proposed Adoption of 10A NCAC 27A .0300 – Clean Claims
5. Proposed Adoption of 10A NCAC 27G .0406 – Letter of Support Required for Licensure of Residential Facilities
6. Statute and Rules Reference Material
7. Rules to be Developed in SFY 2007 – Thematic Areas Generated from Commission Retreat

Additional Handouts:
1. Memorandum on Implementation Update #25: Revised Community Support Rates
2. Resolution on Community Support Services Rate Reduction

3. Communication Bulletin #059
4. NC Council of Community Program – Council Positions on Proposed Rules (April 11, 2007)
5. Rule Making Timeline Handout
6. M.H. Commission CFAC Rule Making
7. 2008 Proposed Meeting Dates
8. Presentation on Rulemaking Process

Call to Order:

Floyd McCullouch, Chairman, Rules Committee, called the meeting to order at 9:40 am. Mr. McCullouch reviewed the list of excused absences: Lois Batton, Emily Moore, Ann Forbes and Fredrica Stell. He asked that we remember our troops overseas, Mr. Stell, all of our client and consumers, and Josh Hamilton whose recent success demonstrates that people can be rehabilitated. Mr. McCullouch asked that the Committee acknowledge Anna Scheyett for being awarded Social Worker of the Year by the North Carolina chapter of the National Association of Social Workers.

Approval of the Minutes:

Mr. McCullouch asked for discussion concerning the draft of the January 17, 2007 Rules Committee minutes. Dr. Richard Brunstetter, Commission member, asked that the language on page 8, paragraph 6 be changed to reflect "Mr. Moseley responded that the LOC **has decided not to** pursue the 2.7 billion cited in the report **but instead** is trying to determine a cost they consider more likely to be supported by a majority in the legislature.**"**

Upon motion, second, and unanimous vote, the Committee approved the minutes of the January 17, 2007 Committee meeting with the recommended change.

Mr. McCullouch requested that Committee members and attendees introduce themselves. Anna Scheyett, Co-Chair of the Rules Committee, informed the committee members that Cindy Kornegay, the Rules Coordinator from the NC Division of Mental Health, Developmental Disabilities and Substance Abuse Services (DMH/DD/SAS), would be retiring effective May 1, 2007. Ms. Scheyett asked that the minutes officially reflect the Commission's appreciation for Cindy Kornegay's work.

Steve Hairston, Chief, Operations Support Section, DMH/DD/SAS, spoke briefly about Implementation Update #25: *Revised Community Support Rates* (see attachment) dated April 5, 2007. Mr. Hairston indicated that through email correspondence with Pender McElroy, Chair, Commission, Leza Wainwright, Deputy Director, DMH/DD/SAS, described Mike Moseley and herself as best suited to address Commission concerns regarding DMH/DD/SAS involvement in the rate-setting issue. However, their schedules precluded their attendance at this meeting. Mr. Hairston added that the Implementation Bulletin co-authored by Dr. Allen Dobson, Assistant Secretary for Health Policy and Medical Assistance and Director, Division of Medical Assistance (DMA), and Mike Moseley, explains the rationale for the rate change. Mr. Hairston further stated Ms. Wainwright wanted him to reiterate that this is a Medicaid rate change and recommended

that someone from DMA be invited to address the Commission relative to the rate reduction. Mr. Hairston also stated that the Implementation Bulletin generated a series of inquiries and concerns which will be shared with Mr. Moseley and Ms. Wainwright. He further opined that it will lead to additional conversations with the Secretary of the NC Department of Health and Human Services (DHHS).

A discussion of Implementation Bulletin #25 ensued; the following is a summary of salient comments:

- The same Community Support rate is being used for professionals and paraprofessionals, but it should be a tiered rate based on whether the service is provided by a professional or paraprofessional .
- NC Council of Community Programs' position is that tiered rates would be best.
- The providers reviewed in the Community Support audit were the providers that were billing for higher rates of services; therefore, the revised rates for community support service (referenced in Implementation Update 25), which was based on this audit, do not reflect the billing patterns of all providers.
- The issue should involve discussion of the person centered plan and how is the person centered plan being done and by whom. A good person centered plan will provide guidance on how much service is needed by the individual. Additional training in this area is needed.
- A main concern is that in the past when providers thought that rates should be higher it took a long time to address and implement higher rates; however, it took a short time period to decrease the rates.
- All of these changes are being done in-house without consulting the Commission and other relevant stakeholders.
- The department should study Value Options' operation because the authorization process is where a part of the problems lies.
- There was concern that this may be a cost-cutting effort to address a reputed $60M shortfall

The following is a summary of questions generated in response to Implementation Update #25:

- Is the manner in which the rates have been determined and changed legal? (How can the rates be made retroactive?)
- Who are the members of the DHHS Rate Review Board? How is the board established? Does the membership include individuals with the necessary skills needed to establish these rates?
- Can someone come to the next Commission meeting to discuss how the revised community support rates were developed? Can Dr. Dobson come to the May Commission meeting?

Mr. Hairston reported that audits were completed of providers that had been providing Community Support Services; these audits revealed deficiencies in the provision of services. Mr. Hairston also shared with the Committee that a series of Medicaid 101 training had been developed and provided by DMH/DD/SAS in conjunction with DMA

to help provider agencies rectify problems noted in the audit process. The Local Management Entities (LMEs) have already been trained and now Medicaid 101 Training will be offered to provider organizations around the state. Mr. Hairston further indicated that there would be another series of training for LME staff at the LMEs in conjunction with the LME team to get them up to speed.

Dr. Brunstetter and Pearl Finch, Commission members, questioned the composition and expertise of the DHHS Rate Review Board. Mr. Hairston stated that is was a Board at the Department level that examines service rates across within DHHS and tries to set the appropriate rates for services. The Rate Review Board has been in existence for approximately seven (7) years. Mr. Hairston reiterated that Mr. Moseley and Ms. Wainwright had limited participation in the meetings with the DMA, DHHS Secretary's Office and the Governor's Office around the Medicaid rate issue. Therefore, DMA is best suited to address the Commission's rate questions. Mr. McElroy confirmed his email correspondence with Ms. Wainwright and agreed that DMA would be best suited to address the Commission's concerns. Ms. Mele reminded the Commission that Representative Verla Insko had suggested that a representative from DMA be invited to address the Commission.

Pender McElroy, Commission Chairman, requested that a written response to the questions raised by Commission members regarding Implementation Update #25 be submitted within ten business days. Mr. McElroy stated that it was an important issue for the Commission even though it was a DMA decision because it impacts the clients that they serve.

Martha Martinat, Commission member, reminded the Committee that funding was one of the important issues identified in the Commission's retreat in February. Ms. Martinet stated that the rate reduction discussed in the Implementation Bulletin reveals the need to reiterate Commission concerns relative to how funding impacts services. Concerns were also raised that the rate changes had been done without consulting the Commission, the Council, or the providers. Mazie Fleetwood, Commission member, stated that the issue involves having a good Person Centered Plan (PCP) and consideration of how the PCP is being done and by whom. Ms. Fleetwood further stated that some providers did take advantage of the rate and now everyone is being punished. That the issue of proper billing involves careful authorization decisions was also mentioned by Committee members.

Clayton Cone, Commission member, mentioned that the memorandum may be a "smoke screen" concealing the real issue of concern, a $60 million dollar shortfall. Therefore, the rate reduction may be a convenient way to address this issue.

Ms. Scheyett presented a draft Resolution for discussion which she recommended for adoption by the Commission. This resolution is outlined below:

Resolution

The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services, pursuant to its authority under G.S. 143B-147(a)(3) to advise the Secretary of the Department of Health and Human Services regarding the provision and coordination of mental health, developmental disabilities, and substance abuse services, does hereby declare:

Whereas:

On February 7, 2007 Secretary Odom issued a memorandum stating that there was to be a focused system review of Community Support Services.

In this same memorandum it was stated that a concern leading to this review was a belief that "an over-reliance on this service may be hampering the availability of other enhanced services", i.e. concern about increased utilization of the service.

In this same memorandum it is stated "Community Support was designed to provide a specific case management function performed by a qualified professional and to develop specific skill building tools for consumers."

On April 5, 2007 Dr. Allen Dobson and Mr. Michael Moseley issued Implementation Update #25, wherein it was stated that the rate for Community Support would be reduced from $15.24 per 15 minute unit to $10.00 per 15 minute unit, a decrease of over 34%. In addition, it was stated that this rate is effective with claims paid on or after April 1, 2007, i.e. is a retroactive decrease.

In this same Implementation Update it is stated that the prior rate was based on the assumption that "a significant portion of the service that any individual received would be delivered by a Qualified Professional" and that rates were decreased upon the discovery that "the vast majority of the services are being provided by paraprofessional staff."

Therefore, be it resolved:

1. It is the view of the Commission that:
    a. Community Support is an essential service for consumers working towards recovery, which can and should encompass evidence-based practices such as Illness Management and Recovery, Family Psycho education, Integrated Dual Diagnosis Treatment, and other skill-teaching interventions.
    b. It is important that, as originally intended, a significant portion of these services be provided by well-trained and qualified professionals, rather than paraprofessionals.

c. High utilization of Community Support is not exclusively a rate issue, but rather an issue of authorization, care management, and part of the larger issue of lack of service capacity
d. Reduction of Community Support rates by 34 percent will ensure that these services are only provided by paraprofessionals, rather than trained and qualified providers, and will thus reduce quality of service or prevent improvement in service.
e. In addition to the dramatic reduction of Community Support rates, the timing and retroactive nature of the decision will seriously harm the ability of providers to remain financially sound and continue to provide care to consumers.

2. The Commission therefore requests that:
    a. Community Support reimbursement be returned to its original rate pending a more thorough examination of the issue.
    b. Rather than rate reduction, the Department:
        i. develop requirements for Community Support that will improve quality of service and maximize chances for recovery, such as: ensuring that a significant portion of services are provided by qualified professionals; ensuring that all Community Support providers are thoroughly trained in recovery and treatment options across the continuum of care
        ii. study the issue within the larger context of lack of service capacity across the state
        iii. develop a comprehensive plan, in partnership with all impacted stakeholders, for improvement in Community Support service provision.

The proposed resolution was modified as follows:

- The decision contained in this implementation bulletin appears to have been arrived at without community or consumer input (end of paragraph 3 of the resolution).
- Reduction of Community Support rates by 34 percent will ensure that these services are only provided by paraprofessionals who are less skilled, rather than trained and qualified providers, and will thus reduce quality of service or prevent improvement in service. (1.d.)
- In addition to the dramatic reduction of Community Support rates, the timing and retroactive nature of the decision represents a lack of collaborative process and partnership with relevant stakeholders**.** The timing and retro active nature of the decision will also seriously harm the ability of providers to remain financially sound and continue to provide care to consumers. (1.e.)
- Implementation of Update #25 be placed on hold for period of 60 days or longer or long and Community Support reimbursement be returned to its original rate pending a more thorough examination of the issue. (2.a.)
- develop requirements for Community Support that will improve quality of service and maximize chances for recovery, such as: having tiered rates for professional

and paraprofessional services**;** ensuring that a significant portion of services are provided by qualified professionals; ensuring that all Community Support providers are thoroughly trained in recovery and treatment options across the continuum of care; and ensuring all Community Support providers are appropriately supervised in their work. (2.b.i.)

- develop a comprehensive plan for improvement in Community Support service provision. Such a planning process should include the advisory and consultative bodies such as the External Advisory team, as well as any other relevant stakeholders. (2.b.iii.)
- engage in careful study of the Value Options authorization process for Community Support. (2.b.iii.)

Upon motion, second and unanimous vote, the Rules Committee approved the Resolution for adoption with the recommended changes.

The Rules Committee further recommended that the Advisory Committee review the Resolution during its meeting on April 12, 2007. Pending adoption by the Advisory Committee, the Commission Chairman is instructed to forward the Resolution to the DHHS Secretary, the Assistant Secretary for Health, Policy & Medical Assistance and Director, Division of Medical Assistance, and the Director of the Division of MH/DD/SAS with the recommended changes.

Peggy Balak, Ex Officio Rules Committee member, recommended that a copy of the Resolution be sent to Representative Verla Insko, Senator Martin Nesbitt, and to the Governor.

Commission Chairman McElroy asked Mr. Hairston to schedule Dr. Allen Dobson as a presenter during the May 17, 2007 Commission meeting.

Mr. Hairston presented a power point presentation on the Division's Rule Making process (See Attachment). This presentation generated discussion relative to the following topics:

- Implied authority of the Commission to make rule
- Authority of the Commission to make rule when the statutes are unclear
- Ability of the Rules Committee to raise objections where it appears the Secretary has exceeded her rule-making authority
- How authority for rule-making is determined
- The source of information for fiscal impact issues

10A NCAC 26C .0402 Proposed Adoption of Standardized Forms and Processes

Dick Oliver, DMH/DD/SAS LME, Systems Performance Team Leader, presented the proposed adoption of the Standardized Forms and Processes rule. The proposed rule satisfies requirements established in Session Law 2006-142 directing DHHS and the Secretary to identify directives and communications previously issued by DMH/DD/SAS that require adoption as administrative rules in order to be enforceable and to undertake

to adopt those rules. The proposed rule satisfies that requirement. The proposed rule is necessary to promote standardization of forms and processes related to system management function between LMEs and provider agencies.

The Secretary has rulemaking authority and the proposed rule is presented for information and comment. Therefore, no action is required by the Commission.

Ms. Scheyett indicated that the rule states that a standardized form should not be altered in any way by the LME or Provider. Ms. Scheyett noticed that the statute contains an exception to permit compliance with court order imposed duty or responsibility. Ms. Scheyett advised Mr. Oliver to make a suggestion to the Secretary that the language might need to be parallel.

Mr. Cone asked if there was a rush to make the standardized forms electronic. Mr. Oliver responded that this would take place over a period of time.

Laura Cooker, Commission member, asked if the forms were at various stages of development at the DMH/DD/SAS. Mr. Oliver stated that some of the forms have been published and are available on the web site, while others are currently under development.

10A NCAC 27A .0300 Proposed Adoption of Clean Claims

Mr. Oliver presented on the proposed Adoption of Clean Claims. The proposed rule is necessary to promote standardization of forms and processes related to claims submission, payment and denial between provider agencies and LMEs. Session Law 2006-142 directs the Secretary to adopt rules regarding what constitutes a clean claim for purposes of billing.

The Secretary has rulemaking authority and the proposed rule is presented for information and comment. Therefore, no action is required by the Commission.

Mr. Cone questioned what would happen if the claims were not processed in a timely manner. Mr. Oliver advised that a review of LME payment of a clean claim is included in the quarterly report.

Ms. Coker asked what steps the Division can take to address provider concerns if a provider no longer feels comfortable going to the LME and they go to the Division instead. Ms. Coker stated that she knew a lot of providers that have had a tough time getting their claims processed and some of them are several hundred thousand dollars behind. Mr. Oliver responded that his office looked at a hundred or more examples of what Ms. Coker had described and that they take a look at those individual cases with the LME and the Provider. He further added that he does not know of any of those cases that have not been resolved.

10A NCAC 27G .0406 Proposed Adoption of Letters of Support Required for Licensure of Residential Facilities

Mr. Oliver presented on the proposed Adoption of Letters of Support Required for Licensure of Residential Facilities. The proposed rule is necessary to ensure that residential treatment facility beds are available where needed, unnecessary costs to the State do not result from excess facilities that result in duplication, high vacancy rates, and underutilization, and that individuals who need care in residential treatment facilities may have access to quality care.

Ms. Fleetwood asked for clarification that a letter of support does not imply that financial assistance will be available for the provider.

Yvonne Copeland introduced and discussed the handout from the NC Council of Community Programs that contained recommended changes to the rules (See Attachment).

Ms. Scheyett directed Mr. Oliver to page 79, line 39 of the mailed packet for the Commission for MH/DD/SAS Rules and Advisory Committee Meetings dated April 11-12, 2007, and asked if the LME is required to figure out the local needs by looking at the number of beds versus the number of children who need a level III group home in their area. Ms. Scheyett continued to point out further language that stated the LME shall identify whether the facility plans to serve a specialized or underserved population. Ms. Scheyett stated that she was not clear if that needed to be documented. Mr. Oliver responded that they did not want the LME to ignore the fact that they may have sufficient beds, but they may not have sufficient beds of a particular type of service that is applying for the application. In response to this concern, Ms. Scheyett recommended the following change: "**if the facility plans to serve a specialized or underserved population, the LME shall identify the local need for the service for that specialized or underserved population"**

Several committee members asked who was involved with working on this particular rule. Mr. Oliver stated that the content was influenced by discussions with a number of LMEs and Providers.

Upon motion, second and unanimous vote, the Rules Committee approved the proposed adoption of 10A NCAC 27G .0406 with the recommended changes to be forward to the Commission for initial review for publication.

The Rules Committee adjourned for lunch at 12:00 PM.

Following lunch, Mr. Hairston reviewed the handout on the Rulemaking Timeline (See Attachment). Mr. McElroy asked Mr. Hairston if it is too soon to bring to today's Rules meeting the comments received during the comment period that ended on April 2nd. Mr. Hairston stated the Division's goal was to clarify the comments and to make sure that they understood the issues and concerns. Also, this includes touching base with the

person who served as the Content Expert and the Subject Matter Expert to make sure that the document had the right intent. Mr. McElroy stated that the committee would like to see an updated handout of Rulemaking Timeline at each Rules Committee meeting.

Discussion on Thematic Areas Generated from Commission Retreat

Mr. Hairston explained that the Executive Leadership Team (ELT) took the top ten areas identified at the Commission Retreat and focused on the top five the Commission identified out of the ten. Next, ELT assigned those five areas to a content expert and their staff to generate ideas for rule around content for the thematic areas that were identified.

Qualified Professional/Associate Professional

Dr. Michael Lancaster, DMH/DD/SAS, Chief of Clinical Policy, gave a presentation on Qualified Professional/Associate Professional. Ellen Holliman, Commission member, asked if there was any reason that the LMEs were not included on the work group. Dr. Lancaster responded that this was the first attempt to address this issue; however, a LME would be added if that was the Commission's recommendation. Mr. McElroy agreed that it would be a good idea. Ms. Holliman agreed to work with Ms. Copeland to recommend a provider to Mr. McElroy regarding who should sit on this work group.

Ms. Fleetwood suggested that Dr. Lancaster obtain input from some of the professional organizations and licensing and certification boards for social workers, psychologists and substance abuse counselors. Ms. Scheyett asked if there were any recommendations about specifying particular training domains, hours, requirements, etc. Dr. Lancaster replied that many of the definitions already specify this information and some of the subject matter content where training is required is provided in the content of the Service Definitions themselves.

Upon motion, second and unanimous vote the Rules Committee approved DMH/DD/SAS staff to continue research in this area in order to develop rules for Qualified Professional/Associate Professionals and to report back to the Rules Committee Meeting in July 2007.

Hospitalization

Laura White, State Operated Services, State Hospitals Team Leader, gave a presentation on Hospitalization (see attached). Ms. White advised that the focus should be on: cleaning up the rule; increasing the LME's role in the authorization process; clarifying the admissions process; and developing rules specific to hospital utilization. Ms. White reminded the Committee members that these were not proposed rules; they reflect first thoughts. Ms. White further mentioned that the people who were looking at these had the perspective of the state hospital; as they move forward they will broaden the group that will be looking at the rules.

Ms. Coker mentioned that the comments under "*SOS Response"* referenced the fact that State Operated Services can focus on the first and the last bullet and the three in the

middle have to do with the LME and the local Emergency Room (ER) as opposed to state facilities. Ms. White replied that DMH/DD/SAS needed to go back to ensure that they are not missing any of the items that the Commission would like to be addressed.

Ms. Martinat stated that she felt that the process of allocation of hospital beds and certain LMEs should be investigated again. Ms. White replied that was what number seven (7) was intended to do since it refers to the need to develop rules specific to hospital utilization. Another issue which was raised by Dr. Brunstetter, involved problems for patients being transferred to and from states hospitals by the Sheriffs Departments, resulting in time management and other concerns. Mrs. White agreed that it was an issue that needed to be examined.

Upon motion, second and unanimous vote, the Rules Committee approved staff to continue developing rules for hospitalization.

Criminal Justice

Marty Lamb, DMH/DD/SAS, Justice Innovations Team, gave a presentation on Criminal Justice rules. Several committee members made comments and raised concerns about related issues. Ms. Martinat stated that there is a need for mental health courts, while Ms. Scheyett commented that she would like the Committee to examine transition issues, such as the hospitals looking at release planning in coordination with the community programs. Ms. Lamb stated that the prison social workers were having difficulty connecting in the community with somebody who would get invested with that particular group of people. Ms. Scheyett added that, from her clinical work, she knew that sometimes individuals leave prison to go back to jail, because of this intermediate location the release plan can fall apart.

Ms. Scheyett asked about the substance abuse part of this rule. Ms. Lamb responded that there were two separate divisions: the Division of Prisons and the Division of Alcohol and Chemical Dependency Programs. She advised that the 26D rules post-date this separation of divisions; therefore, they address only mental health and developmental disabilities. The Division of Alcohol and Chemical Dependency Programs has separate programs and the people we want to support do not legally fall into those categories which is the reason why substance abuse in not in these particular rules. Ms. Scheyett encouraged that what ever could be done to increase communication and collaboration between mental health care and substance abuse care in prisons be included in rule.

Ms. Coker asked if there was an ongoing way for people to get reevaluated for mental illnesses. Ms. Lamb stated that when individuals are admitted into the system, the first place they go is into an assessment center for an evaluation.

Mr. Cone stated that they were struggling to find turn over rates and if they would share whatever turn over rates (guards, support staff, etc.) it would be appreciated. Mr. Cone also mentioned that they would like to have the data on vacancy positions of the prison staff (guards, support staff, social worker, etc.).

Mrs. Lamb stated that she plans to have rules ready in either July or October to bring to the Rules Committee meeting.

Upon motion, second and unanimous vote, the Rules Committee approved staff to continue developing rules for Criminal Justice.

Human Rights Committee

Stuart Berde, DMH/DD/SAS, Customer Services & Community Rights Team Leader, gave a presentation on the Human Rights Committee.

Ms. Finch asked if the client has a grievance are they aware that they can go back to the LME. Mr. Berde stated that the DMH/DD/SAS issued a bulletin two years ago that outlined specifically the steps that consumers can take and every LME can file a complaint on their own regarding the quality of the care under the provision of services. With this bulletin, the DMH/DD/SAS made sure that all LMEs would develop the same internal complaint timelines and processes so that a consumer in one county could expect the same response as another consumer in a different county. He further added that the Division was charged by the Legislature to transform all of those bulletins into administrative rules last year. Ms. Scheyett stated that it would be helpful to the Commission when they see a draft rule or the next report that they also received the most updated version of Senate Bill 163 Rule. She also reminded Mr. Berde that the Commission's priority focus was both human rights committees and broader human rights issues throughout rule.

Upon motion, second and unanimous vote, the Rules Committee approved staff to continue developing rules for Human Right Committee.

Wendi McDaniel, DMH/DD/SAS, State Facility Advocates Team Leader, gave a presentation on the Human Rights Committee for the State Facilities.

Ms. Finch asked about the rules that follow-up with aftercare and how long they follow that patient. Ms. McDaniel responded that the Human Rights Committee does not have this charge.

Peggy Balak, Ex-Officio Member, recommended that there be a seamless client rights system with DMH/DD/SAS by making the rules a framework for Human Rights and not placing every little procedure into a rule.

Upon motion, second and unanimous vote, the Rules Committee approved staff to continue developing rules for the Human Right Committee for State Facilities and recommended adding Ms. Balak's recommendation to the process.

Consumer and Family Advisory Committee (CFAC)

Chris Phillips, DMH/DD/SAS, Chief, Advocacy and Customer Services, gave a presentation on Consumer and Family Advisory Committee (CFAC). Mr. McElroy stated that the Commission never purported to have any authority to regulate the CFACs;

however, the Commission could regulate the LMEs. He further stated that although most of the LMEs are cooperating with CFACs,it had been brought to the Commission's attention that some LMEs were abusing and ignoring the CFACs. It was from that standpoint that the Commission wanted to take at look at what they could do to support LMEs so that they can support the effectiveness of the CFACs.

Ms. Fleetwood stated that they had heard from a couple of CFACs about problems, but that they have not talked to the LMEs about their concerns. Ms. Fleetwood suggested having a couple of LME Directors come to the Commission and give them an opportunity to express their concerns. Mr. McElroy agreed that it was a good idea to have LME input on this issue. Mr. McElroy asked to hear from LME Directors that had problems with CFACs. He requested that Mr. Hairston invite three (3) LME Directors to the May Commission meeting. Mr. Phillips stated that he would be happy to assist in identifying directors where things were working very successfully and directors where there may be problems. Mr. Phillips also offered to make a list for the Commission of problems that they are seeing.

Upon motion, second and unanimous vote, the Rules Committee approved staff to continue developing information to bring forward for the next meeting.

Public Comment:

Kent Earnhardt introduced himself as serving on the governing board of the Governor's Advocacy Council for Persons with Disabilities (GACPD). He advised that the Governor recently announced his intent to begin the process of redesignating the responsibility for the provision of the federally mandated protection and advocacy services (P&A) from GACPD to Carolina Legal Assistance. He further advised that more information is available on the GACPD web site and that the public comment period is still open and that hearings are ongoing.

Other Business:

Mr. Hairston distributed the 2008 Proposed Meeting Dates to the Committee for its review. Meeting dates will be voted on at the Commission meeting in May 2007.

There being no further business, the meeting adjourned at 4:00 pm.